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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/980,377	03/20/2002	Fabio Longoni	4925-183PUS	9743
7590 06/30/2005 Michael C Stuart Cohen Pontani Lieberman & Pavane Suite 1210 551 Fifth Avenue New York, NY 10176			EXAMINER SOBUTKA, PHILIP	
			ART UNIT 2684	PAPER NUMBER
DATE MAILED: 06/30/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/980,377	<b>Applicant(s)</b> LONGONI ET AL.	
	<b>Examiner</b> Philip J Sobutka	<b>Art Unit</b> 2684	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 07 March 2005.  
2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-88 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☒ Claim(s) 16 is/are allowed.  
6) ☒ Claim(s) 1-5, 7, 12-15, 17-21, 26-30, 35-38, 40, 50-53, 55-59, 61-66 and 68-76 is/are rejected.  
7) ☒ Claim(s) 6, 8-11, 22-25, 31-34, 39, 41-49, 54, 60, 67 and 77-88 is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All    b) ☐ Some \*    c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. Claims 1,2,4,13-15,17,19,26,50,52,56,58,62,63,65,69,70,73,76, are rejected under 35 U.S.C. 102(e) as being anticipated by Szalajski et al (US 6,275,487).

Consider claims 1,17. Szalajski teaches a method of controlling power with which information is transmitted by a first station to a plurality of second stations on a common channel, different information being intended for different stations, said method comprising the step of transmitting said information in said common channel, wherein information intended for different second stations are transmitted at different power levels (Szalajski see col 2, line 56 – col 3, line 20).

As to claims 2,19, 76, Szalajski teaches the method as in claim 1, wherein the power level with which information is transmitted is selected in dependence on at least one of a parameter of the intended second station and the content of the information (see col 4, lines 27-53, col 6, lines 29-50).

As to claims 4,26, note that Szalajski's information is in the form of data packets (fig 1, col 5, lines 20-40).

As to claims 13,14,50,56,52,58,62,63,73, note that Szalajski's first station is a base station, and the second is a mobile station (Szalajski col 1, lines 5-30).

As to claims 15,65,69,70 note that Szalajski's common channel is a forward access channel (Szalajski see col 1, lines 5-66).

***Claim Rejections - 35 USC § 103***

2. Claims 3,27,51,57,64, are rejected under 35 U.S.C. 103(a) as being unpatentable over Szalajski in view of Nishino (US 6,347,083).

Consider claim 3. Szalajski teaches everything claimed as shown above except for the information being transmitted with a higher power based on importance of the information. Nishino teaches a power control arrangement in which information is transmitted with a higher power if the content of the information is important (Nishino col 2, lines 25-37). It would have been obvious to one of ordinary skill in the art to modify Szalajski to transmit information with a higher power based on importance as taught by Nishino in order to ensure that important transmissions were received.

As to claim 27, note that Szalajski's information is in the form of data packets (fig 1, col 5, lines 20-40).

As to claims 51,57, note that Szalajski's first station is a base station, and the second is a mobile station (Szalajski col 1, lines 5-30).

As to claim 64, note that Szalajski's common channel is a forward access channel (Szalajski see col 1, lines 5-66).

3. Claims 5,7,12,18,20,21,28,30,35,37,38,40,53,55,59,61,66,68,71,72,74,75, are rejected under 35 U.S.C. 103(a) as being unpatentable over Szalajski in view of Derryberry et al (US 6,498,785).

Consider claims 5,28,30. Szalajski teaches everything claimed as shown above except for the information for a given second station including information identifying the given station. Derryberry teaches a mobile communication system with a shared

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forward channel in which information for a mobile station includes identifying data (Derryberry see especially col 3, lines 35-50). It would have been obvious to one of ordinary skill in the art to modify Szalajski to use the identifying information as taught by Derryberry in order to ensure that the information was received by the intended mobile.

As to claims 53,59, note that Szalajski's first station is a base station, and the second is a mobile station (Szalajski col 1, lines 5-30).

As to claim 66 note that Szalajski's common channel is a forward access channel (Szalajski see col 1, lines 5-66).

Consider claims 7,12,18,20,21,35,37,38,40,75. Szalajski teaches everything claimed except for a controller controlling the information transmittal. Derryberry teaches a mobile communication system in which a radio network controller controls the power control of the system (Derryberry see fig 1, item 112). It would have been obvious to one of ordinary skill in the art to modify Szalajski to use a controller to control the power in order to ensure uniform power control.

As to claims 55,61,72,74, note that Szalajski's first station is a base station, and the second is a mobile station (Szalajski col 1, lines 5-30).

As to claim 68 note that Szalajski's common channel is a forward access channel (Szalajski see col 1, lines 5-66).

As to claim 71, Szalajski teaches the method wherein the power level with which information is transmitted is selected in dependence on at least one of a parameter of the intended second station and the content of the information (see col 4, lines 27-53, col 6, lines 29-50).

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4. Claims 29,36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Szalajski in view of Nishino as applied to claim 3, further in view of Derryberry et al (US 6,498,785).

Consider claim 29. Szalajski in view of Nishino teaches everything claimed as shown above except for the information for a given second station including information identifying the given station. Derryberry teaches a mobile communication system with a shared forward channel in which information for a mobile station includes identifying data (Derryberry see especially col 3, lines 35-50). It would have been obvious to one of ordinary skill in the art to modify Szalajski in view of Nishino to use the identifying information as taught by Derryberry in order to ensure that the information was received by the intended mobile.

As to claim 36, Szalajski in view of Nishino teaches everything claimed as shown above except for a controller controlling the information transmittal. Derryberry teaches a mobile communication system in which a radio network controller controls the power control of the system (Derryberry see fig 1, item 112). It would have been obvious to one of ordinary skill in the art to modify Szalajski to use a controller to control the power in order to ensure uniform power control.

***Allowable Subject Matter***

5. Claim 16 is allowed

6. Claims 6,8-11,22-25,31-34,39,41-49,54,60,67,77-88, are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in

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independent form including all of the limitations of the base claim and any intervening claims.

Consider claims 6,8,9,16,22,23,24,31,32,33,34,77,78,79,80. The nearest prior art as shown in Szalajski fails to teach a method of controlling power with which information transmitted by a first station to a plurality of second stations on a common channel, different information being intended for different stations, said method comprising a first mode in which the information is transmitted with a the same power and a second mode in which different powers are used for information intended for different second stations.

Consider claims 10,11,25,82,83,84,85. The nearest prior art as shown in Szalajski fails to teach a method of controlling power in which information is transmitted by a first station to a plurality of second stations on a common channel, different information being intended for different stations, said method comprising a mode in which different powers are used for information intended for different second stations, wherein the controller is arranged to send a message to the first station to advise the first station as to the range of power levels to be used to transmit information to the second stations.

### ***Response to Arguments***

7. Applicant's arguments filed 3-7-2005 have been fully considered but they are not persuasive.

Applicant argues that the claims distinguish over Szalajski because Szalajski teaches the use of a common frequency carrier, i.e. channel, rather than applicant's

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logical channel. However even assuming this difference is patentable, this is moot since the claims are not limited to a logical channel, and as is commonly understood in the art a channel can be a frequency carrier as clearly taught by Szalajski.

Since Applicant's further arguments are based upon this alleged deficiency of the prior art (which the examiner disputes above) they are also not persuasive

***Conclusion***

8. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nay Maung can be reached on 571-272-7882.

11. The current fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.



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On July 15, 2005, the Central FAX Number will change to **571-273-8300**. This new Central FAX Number is the result of relocating the Central FAX server to the Office's Alexandria, Virginia campus.

Most facsimile-transmitted patent application related correspondence is required to be sent to the Central FAX Number. To give customers time to adjust to the new Central FAX Number, faxes sent to the old number (703-872-9306) will be routed to the new number until September 15, 2005.

After September 15, 2005, the old number will no longer be in service and **571-273-8300** will be the only facsimile number recognized for "centralized delivery".

**CENTRALIZED DELIVERY POLICY:** For patent related correspondence, hand carry deliveries must be made to the Customer Service Window (now located at the Randolph Building, 401 Dulany Street, Alexandria, VA 22314), and facsimile transmissions must be sent to the Central FAX number, unless an exception applies. For example, if the examiner has rejected claims in a regular U.S. patent application, and the reply to the examiner's Office action is desired to be transmitted by facsimile rather than mailed, the reply must be sent to the Central FAX Number.

12. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Philip Sobutka

(571) 272-7887

  
**NAY MAUNG**  
SUPERVISORY PATENT EXAMINER